



Agricultural Holdings (Scotland) Act 2003

2003 asp 11

PART 2 **S**

TENANT'S RIGHT TO BUY LAND

Procedure for buying and valuation

34 Valuation of the land **S**

- (1) The valuer appointed under section 33 is to assess the value of the land in respect of which the right to buy is being exercised as at the date of notice under section 26 of the seller's proposal to transfer the land.
- (2) The valuer is to assess the value of the land—
 - (a) having regard to the value that would be likely to be agreed between a reasonable seller and buyer of such land—
 - (i) assuming that the seller and buyer are, as respects the transaction, willing; and
 - (ii) where the buyer is a sitting tenant;
 - (b) taking account, in so far as a seller and a buyer of the land (assuming that they are, as respects the transaction, willing) would do so, of any factor attributable to the known existence of a person who (not being the tenant who is exercising a right to buy the land) would be willing to buy the land at a price higher than other persons because of a characteristic of the land which relates peculiarly to that person's interest in buying it;
 - (c) taking account of when the seller would in the normal course of events have been likely to recover vacant possession of the land from the tenant;
 - (d) taking account of the terms and conditions of any lease of sporting interests affecting the land;
 - (e) taking account of any moveable property belonging to the owner of the land which is, by agreement between the tenant and the owner, to be—
 - (i) sold with; and
 - (ii) valued along with,the land;
 - (f) taking no account of—

Changes to legislation: Agricultural Holdings (Scotland) Act 2003, Section 34 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) the absence of the period of time during which the land would, on the open market, be likely to be advertised and exposed for sale; or
 - (ii) any factor attributable to any use of the land which is or would be unlawful;
 - (g) taking no account of any increase in the value of the land resulting from improvements carried out at the expense of the tenant;
 - (h) taking no account of any increase in the value of the land resulting from the use of any of the land, or changes to the land, for a purpose that is not an agricultural purpose or the carrying out of conservation activities on the land;
 - (i) taking no account of—
 - (i) any reduction in the value of the land as a result of any dilapidation or deterioration of, or damage to, fixed equipment or land caused or permitted by the tenant; or
 - (ii) any such reduction resulting from the use of any of the land, or changes to the land, for a purpose that is not an agricultural purpose or the carrying out of conservation activities on the land; and
 - (j) taking no account of any fixed equipment owned by the tenant.
- (3) For the purposes of subsection (2)(g)—
- (a) subject to paragraph (b), “improvements” is to be construed by reference to Schedule 5 to the 1991 Act; and
 - (b) the continuous adoption by the tenant of a standard of farming or a system of farming more beneficial to the land than the standard or system required by the lease or, in so far as no system of farming is so required, than the system of farming normally practised on comparable agricultural land in the district, is to be treated as an improvement executed at the tenant’s expense.
- (4) Where land in respect of which the right to buy is being exercised forms part of an estate, the valuer is, in addition to assessing the value of the land under subsection (2), to assess the value representing the difference between—
- (a) the value of the estate were the estate being sold by the seller to a person other than the tenant; and
 - (b) the value of the remainder of the estate (that is to say, the estate less the land in respect of which the right to buy is being exercised) were the remainder being sold by the seller to such a person.
- (5) For the purpose of valuation under subsection (4), where two or more parts of an estate are being bought in exercise of a right to buy under this Part, the valuer may apportion to each such part of the estate (or re-apportion if for any reason the sale of any such part does not proceed) such amount representing the reduction in the value of the estate as the valuer considers equitable.
- (6) The Scottish Ministers may issue guidance (either generally or in respect of a particular class of case) for the purposes of valuation under this section.
- (7) An estate is to be treated, for the purposes of subsections (4) and (5), as comprising—
- (a) any land forming part of the estate and which is being bought in exercise of a right to buy under this Part; and
 - (b) any other land forming part of the estate offered for sale by the seller at the same time as the land mentioned in paragraph (a).
- (8) For the purposes of section 32(2)(b)(i), the price payable by a tenant is—

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- (a) the value assessed under subsection (2); or
- (b) where the land forms part of an estate, the greater of the values assessed under—
 - (i) that subsection; and
 - (ii) subsection (4).

Commencement Information

- I1** S. 34(1)-(5) (7) (8) in force at 15.12.2004 by [S.S.I. 2004/511](#), [art. 2](#)
- I2** S. 34(6) in force at 27.11.2003 by [S.S.I. 2003/548](#), [art. 2\(b\)\(v\)](#) (with [Sch.](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7C inserted by [2016 asp 18 s. 93\(2\)](#)
- s. 7D inserted by [2016 asp 18 s. 106\(2\)](#)
- s. 8F8G inserted by [2016 asp 18 s. 94\(2\)](#)
- s. 16B inserted by [2016 asp 18 s. 95\(2\)](#)
- s. 17A inserted by [2016 asp 18 s. 96\(2\)](#)
- s. 18B inserted by [2016 asp 18 s. 97\(2\)](#)
- s. 26(1)(1A) substituted for s. 26(1) by [2016 asp 18 s. 99\(4\)\(a\)](#)
- s. 26(3) inserted by [2016 asp 18 s. 99\(4\)\(c\)](#)